

Introduced by Senator Lowenthal

December 6, 2004

Senate Constitutional Amendment No. 3— A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by repealing and adding Section 1 of Article XXI thereof, relating to redistricting.

LEGISLATIVE COUNSEL'S DIGEST

SCA 3, as introduced, Lowenthal. Elections: redistricting.

Existing provisions of the California Constitution require that each Member of the Senate, Assembly, Congress, and Board of Equalization be elected from a single-member district.

This measure would require that each of the 40 Senate districts be divided into 2 Assembly districts.

Existing provisions of the California Constitution require the Legislature, in the year following the year in which the federal census is taken at the beginning of each decade, to adjust the boundary lines of the state Senate, Assembly, congressional, and Board of Equalization districts in accordance with specified standards.

This measure would delete this provision, and would instead create a procedure for the appointment of an independent redistricting commission, composed of 5 members, which would be charged with establishing congressional, Assembly, Senate, and Board of Equalization districts of equal population in a grid-like pattern across the state, adjusted as necessary to accommodate various goals, as specified.

This measure would provide that certain records of the Commission are public records.

This measure would grant the Supreme Court original and exclusive jurisdiction over all challenges to a redistricting plan adopted by the

Commission and would require that any challenges to a district be commenced within 45 days after the Commission certified the district to the Secretary of State. The Supreme Court would be required to rule on any challenge within 90 days after the challenge is commenced. If the plan is held to be unconstitutional, the Supreme Court shall itself adopt a plan within 90 days.

This measure would require the establishment of a pool of 25 candidates for appointment to the independent redistricting commission, as nominated by a panel of 10 retired judges of the courts of appeal appointed by the Commission on Judicial Appointments, would require the selection and appointment from this pool of 5 commission members, according to a specified procedure, and would provide for the manner of filling vacancies on the commission, among other things.

This measure would require the Department of Finance to submit to the Legislature a recommendation for estimated redistricting expenses, to be appropriated by the Legislature by majority vote. It would authorize the commission to contract and to hire staff and consultants, including legal representation, for purposes of this measure. It would provide that commissioners are eligible for reimbursement of expenses pursuant to law.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2005–06 Regular
3 Session commencing on the sixth day of December 2004,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California that the
6 Constitution of the State be amended as follows:

7 First—That Section 1 of Article XXI thereof is repealed.

8 ~~SECTION 1. In the year following the year in which the~~
9 ~~national census is taken under the direction of Congress at the~~
10 ~~beginning of each decade, the Legislature shall adjust the~~
11 ~~boundary lines of the Senatorial, Assembly, Congressional, and~~
12 ~~Board of Equalization districts in conformance with the~~
13 ~~following standards:~~

14 ~~(a) Each member of the Senate, Assembly, Congress, and the~~
15 ~~Board of Equalization shall be elected from a single-member~~
16 ~~district.~~

1 ~~(b) The population of all districts of a particular type shall be~~
2 ~~reasonably equal.~~

3 ~~(c) Every district shall be contiguous.~~

4 ~~(d) Districts of each type shall be numbered consecutively~~
5 ~~commencing at the northern boundary of the State and ending at~~
6 ~~the southern boundary.~~

7 ~~(e) The geographical integrity of any city, county, or city and~~
8 ~~county, or of any geographical region shall be respected to the~~
9 ~~extent possible without violating the requirements of any other~~
10 ~~subdivision of this section.~~

11 Second—That Section 1 is added to Article XXI thereof, to
12 read:

13 SECTION 1. (a) Each member of the Senate, Assembly,
14 Congress, and Board of Equalization shall be elected from a
15 single-member district. The territory of each Senate district
16 established pursuant to this section shall be divided into two
17 Assembly districts.

18 (b) By February 28 of each year ending in the number one, a
19 commission to be known as the Independent Redistricting
20 Commission (the Commission) shall be established to provide for
21 the redistricting of congressional, Assembly, Senate, and Board
22 of Equalization districts. The Commission shall consist of five
23 members. No more than two members of the Commission may
24 be members of the same political party. Of the four members
25 appointed pursuant to subdivisions (e) and (f), no two or more
26 may reside in the same county. Each member shall be a
27 registered California voter who has been continuously registered
28 with the same political party, or registered as unaffiliated with a
29 political party, for three or more years immediately preceding
30 appointment and shall commit to applying this section in an
31 honest, independent, and impartial fashion and to upholding
32 public confidence in the integrity of the redistricting process.
33 Within the three years immediately preceding appointment, a
34 member may not have been appointed to, elected to, or a
35 candidate for any other public office, other than school district
36 governing board member or other officer of a school district or
37 county office of education, and may not have served as an officer
38 of a political party, or served as a registered paid lobbyist or as
39 an officer of a candidate's campaign committee.

1 (c) A panel of 10 retired judges of the courts of appeal,
2 appointed by the Commission on Judicial Appointments, shall
3 nominate candidates for appointment to the Commission.

4 (d) By January 8 of each year ending in the number one, the
5 panel of 10 retired judges of the courts of appeal shall establish a
6 pool of persons who are willing to serve on and are qualified for
7 appointment to the Commission. The pool of candidates shall
8 consist of 25 nominees, with 10 nominees from each of the two
9 largest political parties in California based on party registration,
10 and 5 who are not registered with either of the two largest
11 political parties in California.

12 (e) Appointments to the Commission shall be made in the
13 order set forth below. No later than January 31 of each year
14 ending in the number one, the Speaker of the Assembly shall
15 make one appointment to the Commission from the pool of
16 nominees, followed by one appointment from the pool made in
17 turn by each of the following: the minority floor leader of the
18 Assembly, the President pro Tempore of the Senate, and the
19 minority leader of the Senate. Each official shall have a
20 seven-day period in which to make an appointment. If the
21 appointment by the Speaker of the Assembly is not made by
22 January 31, or any of the successive appointments is not made
23 within a period of seven days following the deadline for the
24 preceding appointment, that appointment is forfeited and shall be
25 filled pursuant to subdivision (f). In the event that there are two
26 or more minority parties within the Assembly or the Senate, the
27 leader of the largest minority party by statewide party registration
28 shall make the appointment.

29 (f) Any vacancy in the four Commission positions described in
30 subdivision (e) that remains as of March 1 of a year ending in the
31 number one shall be filled from the pool of nominees by the
32 panel described in subdivision (c). The appointing body shall
33 strive for political balance and fairness in making that
34 appointment.

35 (g) At a meeting called by the Secretary of State, the four
36 Commission members appointed pursuant to subdivisions (e) and
37 (f) shall select by majority vote from the nomination pool a fifth
38 member who is not registered with any party already represented
39 on the Commission. If the four members fail to appoint a fifth
40 member within 15 days of that meeting, the panel described in

subdivision (c), striving for political balance and fairness, shall appoint the fifth member from the nomination pool. The fifth member, as appointed pursuant to this subdivision, shall serve as chairperson of the Commission.

(h) The five members of the Commission shall select by majority vote one of their members to serve as vice chairperson.

(i) After having been served written notice and provided with an opportunity for a response, a member of the Commission may be removed by the Governor, with the concurrence of two-thirds of the Senate, for substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office.

(j) If a member of the Commission vacates his or her term of office prior to its completion for any reason, within the first 30 days after the vacancy occurs the panel described in subdivision (c) shall nominate a pool of three candidates. The nominees shall be of the same political party membership, or independent status, held by the member who vacated the office at the time of his or her appointment. The appointment of the successor member shall be made from the pool of nominees by the person, persons, or entity that, pursuant to subdivision (e), (f), or (g), appointed the member vacating the office, except that a successor appointed pursuant to subdivision (g) under these circumstances is not thereby made the chairperson of the Commission and, in the event of that appointment, a new chairperson shall be appointed by the remaining members. If the appointment of a replacement member is not made within 14 days following the presentation of the nominees, the panel described in subdivision (c) shall make the appointment, striving for political balance and fairness. The newly appointed member shall serve out the remainder of the original term.

(k) Three members, one of whom is the chairperson or vice chairperson, constitute a quorum. Three or more affirmative votes are required for any official action. The Commission shall conduct business only in meetings open to the public, and shall provide not less than 48 hours' public notice of each meeting. The records of the Commission pertaining to redistricting, and all data considered by the Commission are public records, open to inspection by members of the public upon request, except that the Commission may withhold from public inspection preliminary drafts, notes, and communications between members.

1 (l) A person serving as a member of the Commission shall be
2 ineligible, during his or her term of office and for three years
3 thereafter, for public office in this State, other than school district
4 governing board member or other officer of a school district or
5 county office of education, and for registration as a paid lobbyist.

6 (m) The Commission shall establish congressional, Assembly,
7 Senate, and Board of Equalization districts. The mapping process
8 for each of the districts shall consist initially of the creation of
9 districts of equal population in a grid-like pattern across the
10 State. The Commission shall then adjust the grid as necessary to
11 accommodate each of the following goals, prioritized in the order
12 listed:

13 (1) Districts shall comply with the United States Constitution
14 and the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971
15 et seq.).

16 (2) Congressional, Assembly, Senate, and Board of
17 Equalization districts shall each have equal population with other
18 districts for the same office, to the extent practicable.

19 (3) Districts shall be geographically compact and contiguous
20 to the extent practicable.

21 (4) District boundaries shall respect communities of interest to
22 the extent practicable.

23 (5) To the extent practicable, district lines shall use visible
24 geographic features, city and county boundaries, and undivided
25 census tracts.

26 (6) To the extent practicable, competitive districts should be
27 favored where to do so would create no significant detriment to
28 the other goals listed in this subdivision.

29 (n) Party registration and voting history data shall be excluded
30 from the initial phase of the mapping process but may be used to
31 test maps for compliance with the goals set forth in subdivision
32 (m). The places of residence of incumbents or candidates may
33 not be identified or considered for purposes of this section.

34 (o) The Commission shall display a draft map of
35 congressional, Assembly, Senate, and Board of Equalization
36 districts to the public for comment, in a manner designed to
37 achieve the widest public dissemination reasonably possible, and
38 public comment shall be taken for at least 30 days from the date
39 of public display. Either the Assembly or the Senate, or both,
40 may act within this period to make recommendations to the

1 Commission by majority or by minority report, which
2 recommendations shall be considered by the Commission. The
3 Commission shall then establish final boundaries for
4 congressional, Assembly, Senate, and Board of Equalization
5 districts, and shall certify those districts to the Secretary of State.

6 (p) The provisions of this section are self-executing.

7 (q) In each year ending in the number nine, the Department of
8 Finance or its successor shall submit to the Legislature a
9 recommendation for an appropriation adequate to meet the
10 estimated expenses of the subsequent redistricting process
11 occurring pursuant to this section, and shall make adequate office
12 space available for the operation of the Commission.
13 Notwithstanding Section 12 of Article IV, the Legislature shall
14 make the necessary appropriation by bill passed by rollcall vote
15 entered in the journal, a majority of the membership of each
16 house concurring.

17 (r) The Commission, with fiscal oversight from the
18 Department of Finance or its successor, shall have procurement
19 and contracting authority and may hire staff and consultants for
20 the purposes of this section, including legal representation.

21 (s) The Commission has standing in legal actions regarding a
22 redistricting plan and to establish whether funds or other
23 resources provided for the operation of the Commission are
24 adequate. The Commission has sole authority to determine
25 whether the Attorney General or counsel hired or selected by the
26 Commission shall represent the people of California in the legal
27 defense of a redistricting plan.

28 (t) The Supreme Court has original and exclusive jurisdiction
29 in all proceedings where a plan adopted by the Commission is
30 challenged. To challenge a redistricting plan, a resident of a
31 challenged district shall commence an action for injunctive or
32 other relief within 45 days after the Commission has certified the
33 district to the Secretary of State. The Supreme Court shall rule on
34 any challenge within 90 days after an action challenging a
35 redistricting plan is commenced. If the Supreme Court
36 determines that a redistricting plan adopted by the Commission
37 violates this Constitution, the United States Constitution, or any
38 federal statute, the Supreme Court shall, within 90 days, prepare
39 and adopt a revised redistricting plan in accordance with the
40 standards set forth in this section.

1 (u) Members of the Commission are eligible for
2 reimbursement of personal expenses incurred in connection with
3 the duties performed for the Commission pursuant to law, and a
4 member's residence is deemed to be the member's post of duty
5 for purposes of reimbursement of expenses.

6 (v) The term of office of each member of the Commission
7 expires upon the appointment of the first member of the
8 succeeding Commission. The Commission may not meet or incur
9 expenses after the redistricting plan becomes final pursuant to
10 subdivision (o), except with respect to any pending litigation or
11 government approval concerning the plan, to revise districts if
12 required by court order, or if the number of congressional,
13 Assembly, Senate, or Board of Equalization districts is changed.

14 (w) For purposes of this section, "day" means a calendar day,
15 except that if the final day of a period within which an act is to be
16 performed is a Saturday, Sunday, or holiday, the period is
17 extended to the next day that is not a Saturday, Sunday, or
18 holiday.